

## DISTRICT OF COLUMBIA

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## ALCOHOLIC BEVERAGE CONTROL BOARD

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## MEETING

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IN THE MATTER OF: :
   
:
   
Yi Kheng Ung Liquors, LLC :
   
t/a Rose's Liquor : Protest (Status)
   
830 Bladenburg Road NE : Hearing
   
Retailer A :
   
License No. 60822 :
   
ANC 5D :
   
-----:

JULY 29, 2015

The Alcoholic Beverage Control Board  
 met in the Alcoholic Beverage Control Hearing  
 Room, Reeves Building, 2000 14th Street N.W.,  
 Washington, D.C., Chairperson Ruthanne Miller,  
 presiding.

## PRESENT:

RUTHANNE MILLER, Chairperson  
 DONALD BROOKS, Member  
 NICK ALBERTI, Member  
 HECTOR RODRIGUEZ, Member  
 MIKE SILVERSTEIN, Member  
  
 JAMES SHORT, Member

1 P-R-O-C-E-E-D-I-N-G-S

2 9:53 a.m.

3 CHAIRPERSON MILLER: The next protest  
4 hearing status case is Case No. 15-PRO-00053  
5 Rose's Liquor, located at 830 Bladenburg Road,  
6 Northeast, License No. 60822 in ANC 5D. Good  
7 morning.

8 MS. BUGGS: Good morning.

9 CHAIRPERSON MILLER: When you're  
10 ready, if you would identify yourselves for the  
11 record please.

12 MS. BUGGS: My name is Yvonne Buggs.  
13 I'm actually Commissioner, ANC Commissioner 5D06,  
14 where Rose's Liquors is in my SND, and I am  
15 representing the protestors. There are five  
16 protestors.

17 The Commission is not listed as  
18 protestors, but there were 11 protestors and five  
19 showed up. So, they are on vacation.

20 CHAIRPERSON MILLER: Okay, let me just  
21 get the Applicant identification on record,  
22 before you get into that issue.

1 MR. UNG: Okay, my name is Yi.

2 CHAIRPERSON MILLER: You are, I'm  
3 sorry, what? Who?

4 MR. UNG: Yi Ung.

5 CHAIRPERSON MILLER: Ung?

6 MR. UNG: Y-I, U-N-G.

7 CHAIRPERSON MILLER: Okay.

8 MR. LEWIS: Ricky Lewis, interpreter  
9 and associate for Rose's Liquors.

10 CHAIRPERSON MILLER: Okay, you are --  
11 are you an interpreter, or you're just acting as  
12 an interpreter today?

13 MR. LEWIS: Yes, I came to the last  
14 protest hearing to help him out with the things,  
15 as well as have been working with him on the  
16 settlement agreement.

17 CHAIRPERSON MILLER: All right, and  
18 I'm going to just swear you in as an interpreter,  
19 just to be --

20 MR. LEWIS: That's fine.

21 CHAIRPERSON MILLER: Okay, it's  
22 Korean, correct?

1 MR. LEWIS: Say it again.

2 CHAIRPERSON MILLER: The language is  
3 Korean, correct?

4 MR. LEWIS: Yes.

5 CHAIRPERSON MILLER: All right, so, if  
6 you would raise your right hand.

7 (Whereupon, the interpreter was  
8 sworn.)

9 CHAIRPERSON MILLER: Okay, and could  
10 you also just confirm again, what your relation  
11 is to Mr. Ung?

12 MR. LEWIS: The relation is I've  
13 basically been trying to help with the settlement  
14 agreement, getting things done, and I think that  
15 we're pretty much at agreement with the  
16 settlement.

17 CHAIRPERSON MILLER: Okay, are you an  
18 employee or anything with --

19 MR. LEWIS: No, I'm not.

20 CHAIRPERSON MILLER: Okay, all right.

21 So --

22 MEMBER ALBERTI: Ms. Miller, may I ask

1 Mr. Lewis a question?

2 CHAIRPERSON MILLER: Sure.

3 MR. LEWIS: Yes, sir.

4 MEMBER ALBERTI: Mr. Lewis, so, you've  
5 been sworn in as the interpreter, so, are you --  
6 just let me finish, please.

7 MR. LEWIS: Okay.

8 MEMBER ALBERTI: Are you going to  
9 interpret word for word, or are you going to sort  
10 of summarize for Mr. Ung, what's being said?

11 MR. LEWIS: Yes, sir, basically, I do  
12 not speak Korean, but he kind of understands  
13 more, you know, when I --

14 MEMBER ALBERTI: But can he understand  
15 what you tell him about what's happening here?

16 MR. LEWIS: Yes, sir.

17 MEMBER ALBERTI: Okay, so, I will take  
18 that -- all right, I will trust you in your word  
19 that you are able to communicate to him, what is  
20 being said here.

21 MR. LEWIS: Yes, sir.

22 MEMBER ALBERTI: Okay, would you

1 explain that to Mr. Ung and so, that Mr. Ung can  
2 tell us that he's comfortable with that?

3 MR. UNG: Yes, sir.

4 CHAIRPERSON MILLER: Mr. Ung?

5 MEMBER ALBERTI: Okay, I'm sorry. I  
6 believe Mr. Ung just said okay?

7 MR. LEWIS: Yes.

8 MEMBER ALBERTI: Okay, thank you, Mr.  
9 Lewis. I appreciate that.

10 CHAIRPERSON MILLER: Mr. Ung, do you  
11 understand English?

12 MR. UNG: Basically, yes, but not too  
13 well, yes.

14 CHAIRPERSON MILLER: Okay.

15 MR. UNG: For me, I never been in  
16 school in United States. So, I learn from, you  
17 know.

18 CHAIRPERSON MILLER: Okay.

19 MR. UNG: Yes.

20 CHAIRPERSON MILLER: Okay, so, I  
21 understand that, sounds like you understand some  
22 English?

1 MR. UNG: Yes.

2 CHAIRPERSON MILLER: You speak some  
3 English, and Mr. Lewis will make sure that you're  
4 getting it, right?

5 MR. UNG: Yes.

6 CHAIRPERSON MILLER: Okay, and asking  
7 any questions you need to, okay.

8 All right, so, back to Commissioner  
9 Buggs?

10 MS. BUGGS: Yes.

11 CHAIRPERSON MILLER: Okay, so, I have  
12 in my notes that you -- the group of 11 got  
13 conditional standing at roll call, and that you  
14 were to produce an additional Protestant here, in  
15 order to maintain standing.

16 MS. BUGGS: Yes, and at the mediation,  
17 I did produce an additional person for -- as of  
18 the group of five, Adam Roberts.

19 CHAIRPERSON MILLER: So, you're saying  
20 you produced Adam Roberts at mediation?

21 MS. BUGGS: Yes, ma'am.

22 CHAIRPERSON MILLER: Okay, so, who --

1 so, the group of five that were produced,  
2 according to your testimony today is -- are you a  
3 Protestant?

4 MS. BUGGS: No, I'm not.

5 CHAIRPERSON MILLER: You're not a  
6 Protestant?

7 MS. BUGGS: Yes.

8 CHAIRPERSON MILLER: What is your --

9 MS. BUGGS: I'm representing the  
10 Protestants.

11 CHAIRPERSON MILLER: You're  
12 representing them as an advocate for the  
13 Protestants. Okay, so, we don't count you.

14 MS. BUGGS: No.

15 CHAIRPERSON MILLER: All right, so,  
16 Danielle Bays.

17 MS. BUGGS: Danielle Bays, Marqui  
18 Lyons.

19 CHAIRPERSON MILLER: Yes.

20 MS. BUGGS: Karen Ramsey.

21 CHAIRPERSON MILLER: Yes.

22 MS. BUGGS: Edward Milton.



1 CHAIRPERSON MILLER: Okay.

2 MS. BUGGS: And Adam Roberts.

3 CHAIRPERSON MILLER: And Adam Roberts  
4 was at mediation?

5 MS. BUGGS: Yes.

6 CHAIRPERSON MILLER: Okay, let me just  
7 turn to the other side then.

8 Mr. Lewis, were you at mediation?

9 MR. LEWIS: Yes, ma'am, I was.

10 CHAIRPERSON MILLER: Okay, and do you  
11 confirm what Ms. Buggs says, that Adam Roberts  
12 was produced, so therefore, they had a group?

13 MR. LEWIS: Yes, ma'am.

14 CHAIRPERSON MILLER: Of five?

15 MR. LEWIS: Yes, ma'am.

16 CHAIRPERSON MILLER: Okay, so, that's  
17 not an issue?

18 MR. LEWIS: Correct.

19 CHAIRPERSON MILLER: Okay, do Board  
20 Members have any concerns about that?

21 MEMBER ALBERTI: I do.

22 CHAIRPERSON MILLER: Okay, yes, Mr.

1       Alberti, do you want to raise your concern?

2               MEMBER ALBERTI: I know you're going  
3       to think I'm a stickler here, but the regs to say  
4       that the Protestants must be present at either  
5       the roll call or the status hearing.

6               Being present at mediation is not --  
7       does not meet the standards that have been set by  
8       our regulations.

9               MS. BUGGS: All right, Mr. Alberti --

10              MEMBER ALBERTI: You need to address  
11       the Chair on that.

12              MS. BUGGS: Okay.

13              MEMBER ALBERTI: I'm just --

14              MS. BUGGS: That's fine, okay.

15              MEMBER ALBERTI: -- bringing that up.

16              CHAIRPERSON MILLER: Yes.

17              MS. BUGGS: The Protestants are -- we  
18       are -- the Protestants have agreed to the  
19       settlement agreement. They are either just on  
20       vacation at this time, or on travel, as far as  
21       their work goes.

22              The settlement agreement has been

1       agreed to. They just have not been able to sign.  
2       I only had one of the Protestants able to sign.

3               So, that's why we're here today, to  
4       let you know that the settlement agreement is  
5       agreed upon, it just needs to be signed by the  
6       Protestants and Mr. Kim -- Mr. Ung.

7               CHAIRPERSON MILLER: Okay, okay, yes,  
8       Mr. Lewis?

9               MR. LEWIS: I pretty much concur with  
10      what Ms. Buggs is saying.

11              We'd pretty much just like to get the  
12      -- get the settlement signed.

13              CHAIRPERSON MILLER: Okay.

14              MR. LEWIS: So, if necessary, and we  
15      can get it done without them being here, because  
16      we have pretty much given them what they asked.

17              So, if we could get it done today,  
18      we'd like to get it done today.

19              CHAIRPERSON MILLER: You could do it  
20      today.

21              MS. BUGGS: Well --

22              MEMBER ALBERTI: Okay, let me --

1 CHAIRPERSON MILLER: They're on  
2 vacation.

3 MEMBER ALBERTI: May I just -- real  
4 quick, just so everybody understands. I'm sorry  
5 to interject here.

6 But both sides. You can do the  
7 settlement agreement at any point. Whether this  
8 protest goes forward or not, we encourage you to  
9 complete that settlement agreement. I'm really  
10 pleased that you are -- I mean, and congratulate  
11 you on coming to an agreement. That's great.

12 So, move forward. Move forward with  
13 that settlement agreement. If you need to wait  
14 for people to come back to sign it, that's fine.  
15 Again, accepting that settlement agreement is not  
16 -- has nothing to do with -- it not contingent  
17 upon whether this protest --

18 CHAIRPERSON MILLER: Yes, right.

19 MEMBER ALBERTI: -- goes forward or  
20 not. So, protest doesn't go forward, you can  
21 still submit that settlement agreement at any  
22 time, okay?

1 MS. BUGGS: Yes.

2 CHAIRPERSON MILLER: Okay, I am not  
3 inclined to dismiss the protest at this point,  
4 based on what I'm hearing from the  
5 representatives here, and I'm not sure if the  
6 rule that you're referring to is 1603.3 Failure  
7 to Appear, or if there is another rule.

8 But it's in the Board's discretion,  
9 and in this case, it appears that both -- that  
10 the Applicant is not seeking a dismissal, that  
11 they're working together and I just -- I don't  
12 see any reason to do that today, to just dismiss  
13 because the individuals are on vacation, and they  
14 did appear at mediation.

15 MEMBER SILVERSTEIN: Madam Chair?

16 CHAIRPERSON MILLER: Yes.

17 MEMBER SILVERSTEIN: I would agree  
18 with the Chair in this case, although both sides  
19 absolutely have merit.

20 If this is a situation of good  
21 feelings where this type of thing can concur, my  
22 reading of the law is that it is there to ensure

1       that protests are legitimate, that the people do,  
2       in fact, exist and care enough to come down here  
3       and show themselves, and if someone had, in fact,  
4       done that, and mistakenly thought that that was  
5       adequate and sufficient, then I would not dismiss  
6       the protest. I would allow it to go forward, but  
7       insist that that that person show a proper venue  
8       and a proper time in the future, if the protest  
9       does continue.

10               I would not penalize or start the  
11       process over again. I would allow it continue,  
12       keeping in mind what Board Member Alberti has  
13       said, and in -- and demand that the Protestants  
14       provide the people at the proper time, rather  
15       than go back to square one, and force them to  
16       seek reinstatement for good cause. I'd like this  
17       to proceed.

18               CHAIRPERSON MILLER: I think that  
19       also, I think the point is also that they not go  
20       to a hearing, when the parties have been probably  
21       hasn't been granted standing and that perhaps, we  
22       could just schedule another status, in the event

1       that settlement agreement falls through.

2               But based upon what you're saying  
3       here, you're extremely close in your settlement  
4       agreement.

5               MS. BUGGS:   Yes, ma'am.

6               CHAIRPERSON MILLER:   Okay, yes, Mr.  
7       Lewis?

8               MR. LEWIS:   We're extremely close, but  
9       we're pretty much prepared, ready to sign it.  
10       So, it's my understand, we were all given a date  
11       to be here, and while we all had other things  
12       that we could have been doing, but we showed, you  
13       know, in good faith, and we also did a lot of  
14       things to prepare the settle.   Everything that  
15       they asked, we did.

16               So, we came to the hearing with the  
17       understanding that we would just sign it and it  
18       would be done, but --

19               CHAIRPERSON MILLER:   Okay, but --

20               MR. LEWIS:   -- by them not being here,  
21       I'm trying to figure out -- I heard the gentleman  
22       say that someone should have been here.

1 CHAIRPERSON MILLER: Well --

2 MR. LEWIS: I'm kind of new at this,

3 so --

4 CHAIRPERSON MILLER: Okay.

5 MR. LEWIS: -- I'm just trying to

6 figure this out.

7 MEMBER ALBERTI: So, is there a

8 motion?

9 CHAIRPERSON MILLER: So, I never --

10 the thing is, if you have a settlement -- our

11 hesitation is, if you have a settlement agreement

12 coming in, I would hate to, you know, undermine

13 that and have you all start again.

14 So, I would suggest maybe if this

15 settlement agreement is close, that it be filed

16 with the Board, and if we don't receive it by a

17 certain date, then we could dismiss the protest.

18 MEMBER ALBERTI: Is there a motion?

19 CHAIRPERSON MILLER: No.

20 MEMBER ALBERTI: No?

21 CHAIRPERSON MILLER: We don't have a

22 motion, no.



1 MEMBER ALBERTI: Well, then may I ask

2 --

3 CHAIRPERSON MILLER: Basically, let's  
4 just finish with the parties. Yes?

5 MS. BUGGS: Madam Chair, I can  
6 definitely -- I brought the settlement agreement  
7 with me, but I can actually scan it and send it  
8 to the -- each Protestant, and have them print  
9 it, scan it and send it back, so that we can have  
10 the settlement agreement with the signatures, by  
11 the end of the week.

12 CHAIRPERSON MILLER: Okay.

13 MS. BUGGS: So, if Mr. Lewis and Mr.  
14 Ung is in agreement with that, they can sign --  
15 Mr. Ung can sign the settlement agreement, and  
16 I'll just push it forward for the Protestants to  
17 sign it, because as I said, they are all in  
18 agreement with signing it.

19 They have read this -- the settlement  
20 agreement, containing what they agreed upon with  
21 Mr. Ung, it's all incorporated in the settlement  
22 agreement.

1                   So, that's how close we are with this.

2                   CHAIRPERSON MILLER:   Okay, that's  
3                   good.   Okay, I just have been shown an email that  
4                   directs you to bring one more person to the  
5                   status hearing, and is it your representation  
6                   that it was -- so, from Ms. Fletcher to Yvonne  
7                   Buggs, cc: to Ricky Lewis, about directing you to  
8                   bring one more -- one more individual to this  
9                   status hearing.   Did you get that email?

10                  MS. BUGGS:   Yes.

11                  CHAIRPERSON MILLER:   Okay, and your  
12                  response is?

13                  MS. BUGGS:   I thought she was  
14                  referring to the mediation, which we already  
15                  brought Mr. Roberts there.

16                  CHAIRPERSON MILLER:   Okay.

17                  MS. BUGGS:   Because she was -- she was  
18                  there.

19                  CHAIRPERSON MILLER:   Okay, so -- okay,  
20                  all right.   Okay, again, I guess it's my feeling  
21                  that if -- since the parties are very close to an  
22                  agreement, if they can get an agreement in by the

1 end of the week, I would not be inclined to  
2 dismiss the protest.

3 But if that doesn't happen, then I  
4 think -- I would entertain that. I'm not -- I  
5 don't to -- I'm not in favor of moving to dismiss  
6 the protest today --

7 MEMBER ALBERTI: Well --

8 CHAIRPERSON MILLER: -- because  
9 someone didn't appear, based on the -- number  
10 one, what we've heard, that there may have been  
11 some confusion about a hearing today, and number  
12 two, that basically, the parties are basically  
13 there.

14 So, I think we ought to see the  
15 agreement.

16 MEMBER ALBERTI: May I speak, Madam  
17 Chair?

18 CHAIRPERSON MILLER: Sure.

19 MEMBER ALBERTI: Madam Chair, I'm  
20 concerned about this Board being consistent and  
21 sending a consistent message to the public.

22 We have instructed everyone that five

1 members have to appear either at roll call or the  
2 status hearing. Staff has been instructed and  
3 trained to tell everybody that. I can only  
4 assume that Ms. Buggs and the other Protestants  
5 were told that loud and clear at roll call and at  
6 mediation.

7 We also know that Ms. Buggs was told  
8 in the email, that someone had to show up, a  
9 fifth person had to show up at this.

10 I think it's important, this Board  
11 treat everyone the same, not just, "Oh, in this  
12 case, we think it's okay," and that case, "Well,  
13 no, we want to live by the rules."

14 I think it's important for us to be  
15 consistent, and that's why I think that we should  
16 dismiss this protest.

17 As I said earlier, that does not have  
18 to get -- the status of this protest would not  
19 have to get in the way of the settlement  
20 agreement. The parties have an agreement.  
21 They're working together. I commend them for  
22 that. They can move forward with the settlement

1 agreement.

2 Also, I'm very confused about your  
3 suggestion that if they don't get it in by  
4 Friday, we dismiss the protest. That's  
5 completely out of keeping with our practices, and  
6 I'm not even sure that it's legitimate, to do --  
7 dismiss the protest contingent upon the  
8 submission of a settlement agreement. I've never  
9 heard of that.

10 So, again, I'm perplexed and I  
11 recommend that we dismiss this protest.

12 CHAIRPERSON MILLER: Okay, there is  
13 nothing so unusual about a one week extension of  
14 time. That's just a -- that's a basic legal  
15 process.

16 MEMBER ALBERTI: But when they -- when  
17 would we vote? When would we vote?

18 CHAIRPERSON MILLER: So, I don't know  
19 what --

20 MEMBER ALBERTI: When would we vote,  
21 Madam Chair?

22 CHAIRPERSON MILLER: We could vote

1 next Wednesday.

2 MEMBER ALBERTI: Okay.

3 CHAIRPERSON MILLER: We could -- I'm  
4 not sure what reg you're looking at, but the reg  
5 that I was looking at, that talks about failure  
6 to appear, says that the Board may, in its  
7 discretion, so, we're allowed to use -- it says,  
8 "The Board may."

9 So, we're allowed to use our  
10 discretion, and in this case, we have both  
11 parties saying they have basically, an agreement  
12 and they just have to sign it.

13 So, I'm just not in favor of  
14 dismissing a case when it's at that point. If  
15 you are, you want to file a motion? I mean --

16 MEMBER ALBERTI: Okay, then I will  
17 move that we dismiss this protest, for failure  
18 for all five Protestants to appear.

19 CHAIRPERSON MILLER: Is there a  
20 second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIRPERSON MILLER: Would you care to

1 make a comment?

2 (No audible response.)

3 CHAIRPERSON MILLER: All right,  
4 there's a motion that's been seconded to the  
5 dismiss the protest for failure to produce the  
6 fifth Protestant at this status hearing.

7 I think we've discussed it fully. All  
8 those in favor, say aye.

9 MEMBER SILVERSTEIN: Aye.

10 MEMBER ALBERTI: Aye.

11 CHAIRPERSON MILLER: All those  
12 opposed? Opposed? Okay, then the motion fails.

13 Okay, so, where we're at is that your  
14 case is still alive and you have represented that  
15 you will get in an agreement by the end of the  
16 week, and if that does not happen, that the Board  
17 will entertain again, the motion to dismiss.

18 MS. BUGGS: Thank you.

19 CHAIRPERSON MILLER: Okay, this isn't  
20 even on. Okay, let's -- I think we just need to  
21 be clear, what's happened in this case, is that  
22 you have said that we're going to get a

1 settlement agreement.

2 So, where normally we might have -- we  
3 might have dismissed the case for failure to have  
4 your fifth person here, we may or may not have  
5 that.

6 We may have decided that it was  
7 adequate that you did it at mediation. We didn't  
8 make that decision, but we did not -- you didn't  
9 bring your fifth person here today, and according  
10 also to Ms. Fletcher's email, if you produce your  
11 -- if you produce your settlement agreement, then  
12 that issue is moot. You have a settlement  
13 agreement. It's done.

14 If you don't produce a settlement  
15 agreement, then the Board will entertain next  
16 week, whether to dismiss that case. Okay, is  
17 that fair?

18 MEMBER ALBERTI: Madam Chair, I think  
19 it's more than that. I think --

20 CHAIRPERSON MILLER: To then dismiss  
21 the case?

22 MEMBER ALBERTI: No, no, it's more



1       than submitting the settlement agreement. They  
2       have to -- I'm assuming that you've conferred  
3       status on the Protestants, and then the  
4       Protestants would have to withdraw their protest.

5  
6               You have to make it clear in your  
7       letter to us, that you're withdrawing your  
8       protest, otherwise even with a settlement  
9       agreement, we would go forward with a protest.

10              I can't emphasize any more than I'm  
11       trying -- you know, then I've tried to do, is  
12       that the settlement agreement and the protest  
13       often happen at the same time, but they are not  
14       linked.

15              You can enter into settlement  
16       agreement at any point, at any time during the  
17       year, you can enter into settlement agreement.  
18       The two are not linked.

19              You have been confirmed as a  
20       Protestant, as I understand the Chair during the  
21       --

22              CHAIRPERSON MILLER: Well, that's not

1       --

2               MEMBER ALBERTI:  So, let me --

3               CHAIRPERSON MILLER:  That is not --

4               MEMBER ALBERTI:  May I finish, or if  
5 not, you need to clear that up.

6               CHAIRPERSON MILLER:  I would --

7               MEMBER ALBERTI:  So, you will need to  
8 send us a letter withdrawing the protest, just so  
9 that we have that for the record.  We can't -- we  
10 can't assume anything.  Legally, we can't just  
11 assume that you're withdrawing the protest, if  
12 you submit a settlement agreement.  It doesn't  
13 work that way.

14              CHAIRPERSON MILLER:  Okay, Mr.  
15 Alberti, it's my understanding that you don't  
16 even have to be a party to have a settlement  
17 agreement, and since we did not vote on the  
18 standing issue but --

19              MEMBER ALBERTI:  That's correct, and  
20 that's what I've been saying all along.

21              CHAIRPERSON MILLER:  But there is --

22              MEMBER ALBERTI:  You can enter into a

1 settlement agreement at any point, whether or not  
2 you have a protest or not. I've just said that  
3 several times.

4 CHAIRPERSON MILLER: That's correct,  
5 but we didn't -- we didn't deny the -- we didn't  
6 dismiss the protest at this point.

7 MEMBER ALBERTI: So, it's not clear to  
8 me --

9 CHAIRPERSON MILLER: We did not rule  
10 on the --

11 MEMBER ALBERTI: It is not clear --

12 CHAIRPERSON MILLER: We didn't rule on  
13 the standing. We just ruled that this could be  
14 continued and not dismissed.

15 MEMBER ALBERTI: So, are we postponing  
16 the status hearing? Is that what we're doing? I  
17 don't understand that we're doing -- what exactly  
18 we've just done.

19 CHAIRPERSON MILLER: That's what we'll  
20 do. That's what we'll do, yes. I'm expecting us  
21 to have --

22 MEMBER SILVERSTEIN: We continue the

1 status hearing --

2 CHAIRPERSON MILLER: Let's do that.

3 MEMBER SILVERSTEIN: Can we give a  
4 session?

5 CHAIRPERSON MILLER: No.

6 MEMBER SILVERSTEIN: A date?

7 CHAIRPERSON MILLER: Let's just do  
8 that. Next week.

9 MEMBER SILVERSTEIN: Well, to a date,  
10 to be determined.

11 CHAIRPERSON MILLER: Okay, yes.

12 MS. BUGGS: Madam Chair, would it help  
13 that once I send you the settlement agreement,  
14 I'll also include a letter withdrawing the  
15 protest?

16 CHAIRPERSON MILLER: Yes, that would  
17 be fine.

18 MEMBER SILVERSTEIN: That would help.

19 MS. BUGGS: I will do that.

20 CHAIRPERSON MILLER: Okay, so, what  
21 we're saying is, we will -- if we need to confirm  
22 with Counsel about another date, I hope we don't

1 need another date, just to have another status  
2 conference, in which case, we would rule on the  
3 issue of standing.

4 MS. BUGGS: Okay.

5 CHAIRPERSON MILLER: But if you're in  
6 agreement -- if you're going to submit a  
7 settlement agreement, then that will -- and then  
8 withdraw your protest, then it's -- it's done.

9 Okay, if you're going to change your  
10 mind and oppose this a week later, that's your  
11 choice. I'm not -- you're not bound. We're not  
12 binding you to a settlement agreement. We're  
13 just giving you that opportunity, where you all  
14 said you wanted this to be done, you're almost  
15 there. Fine. That's awesome.

16 MR. LEWIS: I'm just trying to be  
17 clear on what it is that you're saying, because  
18 I'm hearing like two different things.

19 CHAIRPERSON MILLER: Well, I am  
20 getting different suggestions.

21 MR. LEWIS: This is one way and this  
22 is the other way.

1 CHAIRPERSON MILLER: We did not  
2 dismiss the protest today. We took a vote.

3 MR. LEWIS: Okay.

4 CHAIRPERSON MILLER: We did not  
5 dismiss the protest.

6 You made a representation that you're  
7 going to have a settlement agreement come in.  
8 So, if it doesn't come in for some reason, we  
9 will reschedule a status.

10 We expect that your settlement  
11 agreement will come in.

12 MEMBER ALBERTI: I think I am -- I may  
13 have a different interpretation, Madam Chair.

14 I think that unless they dismiss the  
15 protest, regardless of what they do in the  
16 settlement agreement, unless they dismiss the  
17 protest, there will be another status hearing.  
18 Is that my -- is that the correct -- what I'm --  
19 is that what I'm hearing? That's not the words  
20 I'm hearing, but is that what I --

21 CHAIRPERSON MILLER: Well, when a  
22 settlement agreement comes in --

1 MEMBER ALBERTI: No, they need to  
2 dismiss the protest.

3 CHAIRPERSON MILLER: Okay.

4 MEMBER ALBERTI: They are --

5 CHAIRPERSON MILLER: Well, we're going  
6 to ask --

7 MEMBER ALBERTI: Madam Chair --

8 CHAIRPERSON MILLER: We need to --

9 MEMBER ALBERTI: -- maybe we should  
10 adjourn and talk about this in the back.

11 CHAIRPERSON MILLER: I don't -- I  
12 think we're over-analyzing this.

13 MEMBER ALBERTI: No, I think the words  
14 --

15 CHAIRPERSON MILLER: They did not --

16 MEMBER ALBERTI: I think the words on  
17 the record a very important, and I think without  
18 a withdraw of the protest --

19 CHAIRPERSON MILLER: Okay, fine.

20 MEMBER ALBERTI: -- we can't assume  
21 that --

22 CHAIRPERSON MILLER: Okay, that's

1 fine.

2 MEMBER ALBERTI: We can't assume that  
3 it's moot.

4 CHAIRPERSON MILLER: That's fine. I  
5 will go along with that. That's fine. That's  
6 fine.

7 MS. BUGGS: So, when would you require  
8 the letter --

9 CHAIRPERSON MILLER: It should come in  
10 with the settlement agreement.

11 MS. BUGGS: Okay.

12 CHAIRPERSON MILLER: Which you said  
13 should come in the end of this week.

14 MS. BUGGS: Yes.

15 CHAIRPERSON MILLER: If that doesn't  
16 happen --

17 MR. LEWIS: If it doesn't come in by  
18 the end of the week, then what does that mean?

19 CHAIRPERSON MILLER: Then that means  
20 there is one more status conference and it will  
21 be subject to dismissal.

22 MS. BUGGS: Okay.



1                   CHAIRPERSON MILLER: For failure to --  
2 whatever, whatever reasons.

3                   MR. LEWIS: I think I understand, but  
4 this kind of goes back to the original point that  
5 he made, about nobody being here, other than Ms.  
6 Buggs.

7                   CHAIRPERSON MILLER: So, now, you're  
8 opposing, because what you had presented before  
9 was, you were fine, that you had a settlement  
10 agreement.

11                  MR. LEWIS: We have it, but what I'm  
12 trying to understand is, so, if it doesn't -- if  
13 they're not ready in the time limit that you give  
14 them, what happens from that point, is what I'm  
15 asking.

16                  If she can't contact the other five  
17 people and they all sign it, or how that's  
18 suppose to happen, I'm just asking you, what  
19 happens from that point?

20                  CHAIRPERSON MILLER: This is very  
21 close to dismissal, if the Protestants don't do  
22 what they're suppose to do, either present a

1 settlement agreement that is signed or the fifth  
2 person, and that --

3 All right, so, just to give you a more  
4 definite, it sounds like you're being so close to  
5 this.

6 You have said that basically, it's  
7 going to come -- the settlement is coming in --  
8 will be coming in this week. If it doesn't, and  
9 they appear here for a settlement -- for a status  
10 conference next Wednesday, then this case will be  
11 resolved, okay?

12 MR. LEWIS: Okay, so, I'd like to --  
13 like the last participant was asking, does Mr.  
14 Kim have to be here also for that next hearing?

15 CHAIRPERSON MILLER: Does he have to  
16 be here?

17 MR. LEWIS: Yes.

18 CHAIRPERSON MILLER: If he is not  
19 here, he has to designate you in writing ahead of  
20 time, as his agent, or someone as his agent, in  
21 writing, to make any decisions that affect his  
22 case.

1                   Okay, I'm sorry, you know, maybe you  
2                   gave us the wrong impression, but the impression  
3                   you gave us was, you're just about there and you  
4                   want to wrap it up.

5                   MR. LEWIS: Well, we're ready to.

6                   CHAIRPERSON MILLER: Okay, I hope that  
7                   happens, okay.

8                   MR. LEWIS: If the other parties were  
9                   here, this would be done.

10                  CHAIRPERSON MILLER: Okay.

11                  MR. LEWIS: So, now, I mean, we have  
12                  another week. My only concern is that if she  
13                  can't get it done in a week, then what happens?  
14                  That will go --

15                  CHAIRPERSON MILLER: No, no, most  
16                  likely, be it dismissed. Most likely, I can't  
17                  tell you how the vote is going to go, but --

18                  MR. LEWIS: Okay.

19                  CHAIRPERSON MILLER: -- you know, I  
20                  think if Protestant comes in and says, "Yes, they  
21                  didn't sign an agreement," and you don't have  
22                  your fifth person here, regardless of the --

1       there may have been a misunderstanding, but the  
2       fifth person has to be here, and most likely, it  
3       will be dismissed, but I can't totally say. All  
4       right?

5                   MR. LEWIS: I understand.

6                   CHAIRPERSON MILLER: Okay, well, good  
7       luck. I hope you all just wrap it up.

8                   MS. BUGGS: Thank you.

9                   CHAIRPERSON MILLER: Okay, thank you.

10                  MR. LEWIS: Well, how will we know the  
11       date?

12                  CHAIRPERSON MILLER: It's Wednesday.  
13       I can confirm. Our Counsel -- this is Martha  
14       Jenkins, our Counsel. So, you can check in with  
15       her. The date should be next Wednesday. We  
16       don't want this to string out. It's a very  
17       simple issue. Either you have an agreement or  
18       you don't, the way you've presented it.

19                  We're not saying it's going to extend  
20       another month. This is just one week, because  
21       you all said you are close to an agreement.

22                  MR. LEWIS: Yes, ma'am.

1 CHAIRPERSON MILLER: Okay, is that  
2 understood?

3 MS. BUGGS: Yes.

4 CHAIRPERSON MILLER: All right, thank  
5 you. Good luck.

6 MS. BUGGS: Thank you.

7 (Whereupon, the above-entitled matter  
8 went off the record at 10:24 a.m.)  
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